

U.S. Department of Labor

Office of Administrative Law Judges
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Issue Date: 23 July 2008

Case No.: 2008-STA-7

IN THE MATTER OF

GEORGANNE BRADBURY,
Complainant

vs.

SCHWANS FOOD COMPANY,
Respondent

**RECOMMENDED ORDER APPROVING WITHDRAWAL
OF OBJECTIONS AND DISMISSING CLAIM**

This case arises under Section 405, the employee protection provision of the Surface Transportation Assistance Act of 1982, 49 U.S.C.A § 31105 (West 2003), and the implementing regulations at 29 C.F.R. Part 1978 (2006). A hearing is presently scheduled for 22 Sep 08 in Houston, Texas. On 23 Jul 08, counsel for Complainant submitted a Motion for Voluntary Dismissal of Complainant's case with prejudice. Counsel stated that she consulted with Respondent's counsel and Respondent has no objection to the dismissal.

Pursuant to 29 C.F.R. § 1978.111(c), a complainant may file a written withdrawal of objections to the Secretary's preliminary findings with an Administrative Law Judge at any time before the findings or order becomes final. Thus, where a complainant seeks to withdraw his or her complaint, the Complainant's request is construed as a withdrawal of objections to the Secretary's preliminary findings. *Mysinger v. Rent-A-Driver*, 1990-STA-23 (Sec'y Sept. 21, 1990).

Accordingly, it is hereby ordered that the hearing scheduled for **22 Sep 08** in **Houston, Texas** is **cancelled**, the Secretary's findings are reinstated, and the above-captioned matter is hereby dismissed with prejudice, pursuant to 29 C.F.R. § 1978.111(c). Parties are to bear their own attorney fees and costs.

So ORDERED.

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PATRICK M. ROSENOW
Administrative Law Judge

NOTICE: This Recommended Order Approving Withdrawal of Objections and Dismissing Claim, and the administrative file in this matter, will be forwarded to the Administrative Review Board, U.S. Department of Labor, Room S-4309, 200 Constitution Avenue, NW, Washington DC 20210, for entry of a Final Order. *See* 29 C.F.R. § 1978.109(a) and 1978.109(c); *Ass't Sec'y & Boyd v. Palmentere Brothers Cartage Service, Inc.*, ARB No. 04-135, ALJ No. 2003-STA-40 (ARB Oct. 27, 2004), *Foley v. J.B. Hunt Transportation, Inc.*, ARB No. 04-080, ALJ No. 2004-STA-14 (ARB Oct. 27, 2004) and *Pavon v. United Parcel Service*, ARB No. 04-127, ALJ No. 2003-STA-46 (ARB Oct. 27, 2004). The parties may file with the Administrative Review Board briefs in support of or in opposition to Recommended Order Approving Withdrawal of Objections and Dismissing Claim within thirty days of the issuance of this Recommended Order unless the Administrative Review Board, upon notice to the parties, establishes a different briefing schedule. 29 C.F.R. § 1978.109(c).